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Application No. 10/687,748
Response to the Office Action of 07/06/2007

Listing of Claims:

Claim 1 (previously amended): A phimosis curer comprising;

a first handle grip having a first end and a second end and a second handle grip having a first end and a second end;

a first jaw having a first end and a second end and a second jaw having a first end and a second end;

a first blade having a first end and a second end and a second blade having a first end and a second end;

said first handle grip second end and said first jaw first end are joined together;

said second handle grip second end and said second jaw first end are joined together;

said first blade first end and said first jaw second end are joined together;

said second blade first end and said second jaw second end are joined together;

said first blade and said second blade extend upwardly from said first jaw and said second jaw respectively so as to be insertable into a foreskin opening;

said first handle grip and said first jaw are joined to said second handle grip and said second jaw such that moving said first handle grip and said second handle grip toward each other moves said first jaw and said second jaw away from each other;

a ratchet means pivots between said first handle grip and said second handle grip adjacent said first handle grip second end and said second handle grip second end;

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said ratchet means is designed to selectively prevent said first handle grip and said second handle grip from moving away from each other;

a first enlarged hook means on said first blade second end and a second enlarged hook means on said second blade second end, said first enlarged hook means and said second enlarged hook means having tip sides and front sides and rear sides with said enlarged hook means first and second enlarged hook means tip sides formed so as to protrude, and said rear side of said first elongated hook means and said rear side of said second elongated hook means protrude to prevent said first blade and said second blade from slipping out of a foreskin opening when said first blade and said second blade enlarged hook means front sides are separated within a foreskin opening so that said phimosis curer will not damage the foreskin when it is inserted into the foreskin opening and said blades are separated.

Claim 2 (original): A phimosis curer as in claim 1 including:

a fulcrum pin attaching said first handle grip and said second handle grip together so that said first handle grip and said first jaw can be pivoted relative to said second handle grip and said second jaw.

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Claim 3 (original): A phimosis curer as in claim 2 wherein:

said ratchet means includes a curved rack with an upper surface, a lower surface, a first side surface and a second side surface, a first end, a second end, cogs, and a pawl;

said curved rack first end is attached to said first handle grip second end by a first pivot pin;

said pawl is attached to said second handle grip second end by a second pivot pin.

Claim 4 (original): A phimosis curer as in claim 3 wherein:

said curved rack is provided with a slot along its interior length;

said pawl fits within said curved rack slot;

said slot is wide enough to accommodate said pawl in both the engaged position, against said cogs on said curved rack when said first handle grip and said second handle grip are pivoted toward each other, and the disengaged position, away from said cogs on said curved rack, for permitting said first handle grip and said second handle grip to be pivoted away from each other.

Claim 5 (original): A phimosis curer as in claim 3 wherein:

said curved rack is provided with one smooth side surface and one irregular cog surface;

said curved rack irregular cog surface pivots toward said pawl to selectively engage said

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pawl with said irregular cogs, and away from said pawl to remove said curved rack from contact with said pawl.

Claim 6 (original): A phimosis curer as in claim 3 wherein:

said curved rack lower surface has a guide groove;

said second handle grip second end has a spring-loaded projection;

a stop is positioned on said second handle grip second end on said first side surface of said curved rack second end and said pawl is positioned on said second side surface of said curved rack to limit pivotal movement of said curved rack about said first pivot pin to keep said spring-loaded projection against said curved rack lower surface at all times.

Claim 7 (original): A phimosis curer as in claim 6 wherein:

said spring-loaded projection extends into said guide groove when said guide groove is positioned above it;

said guide groove controls the pivotal movement of said curved rack about said first pivot pin when said projection is in said guide groove to maintain said pawl disengaged from said cogs on said curved rack.

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Claim 8 (original): A phimosis curer as in claim 7 wherein:

said guide groove terminates in a decreasing depth taper adjacent to said curved rack second end so that moving said first handle grip and said second handle grip away from each other pushes said projection from said guide groove by pressing said projection into said second handle grip;

resilient means bias said curved rack toward said pawl to maintain said pawl in engagement with said cogs when said projection is released from said guide groove.

Claim 9 (original): A phimosis curer as in claim 1 wherein:

said enlarged hook means are in the general shape of a ball with finished smooth curved surfaces and with spaces provided to preclude damage to the penis glands and from pinching the foreskin.

Claim 10 (original): A phimosis curer as in claim 9 wherein:

said enlarged hook means are coated with an inert material not harmful to the human body.

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Claim 11 (original): A phimosis curer as in claim 1 wherein:

said first handle grip and said first jaw and said first blade and said first enlarged hook means are one integral part;

said second handle grip and said second jaw and said second blade and said second enlarged hook means are one integral part.

Claim 12 (original): A phimosis curer as in claim 3 wherein:

a bias means with said first pivot pin for biasing said cogs on said ratchet means curved rack toward said pawl.

Claim 13 (original): A phimosis curer as in claim 1 wherein:

said first handle grip and said first jaw and said first blade and said first enlarged hook means and said second handle grip and said second jaw and said second blade and said second enlarged hook means are all one integral shaped spring element.

Claim 14 (original): A phimosis curer as in claim 13 wherein:

said first handle grip first end and said second handle grip first end are united together;

said first jaw and said second jaw criss-cross each other.

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Claim 15 (original): A phimosis curer as in claim 13 wherein:

said ratchet means has a flat rack having a first side edge and a second side edge;

said flat rack is attached to said second handle grip;

cogs are formed along said flat rack first side edge;

said ratchet means is engaged by selectively placing said first handle grip into one of said cogs on said flat rack first side.

Claim 16 (original): A phimosis curer as in claim 2 including:

a spring with said fulcrum pin for biasing said first handle grip and said second handle grip away from each other.

Claim 17 (withdrawn): A process for curing phimosis comprising:

providing a pliers-like hand tool having a first handle grip and a second handle grip with attached first and second jaws respectively and respective first blade and second blade joined to and extending outwardly from said first jaw and said second jaw so that moving said first handle grip and said second handle grip toward each other moves said first blade and said second blade away from each other;

providing a ratchet means between said first handle grip and said second handle grip;

inserting said first blade and said second blade under a foreskin opening;

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squeezing said first handle grip and said second handle grip together moving said first blade and second blade apart stretching said foreskin;

engaging said ratchet means preventing said first handle grip and said second handle grip from separating and said first blade and said second blade from moving closer together; holding said foreskin in the stretched condition;

retaining said ratchet means engaged and said foreskin stretched for essentially thirty (30) minutes to elongate the foreskin opening;

releasing said ratchet and moving said first blade and said second blade together and removing said blades from under the foreskin opening.

Claim 18 (withdrawn): A process for curing phimosis as in claim 17 additionally:

providing a first hooking means on the outer end of said first blade and a second hooking means on the outer end of said second blade;

preventing the foreskin from slipping off of said first blade and said second blade by inserting said first hooking means on said first blade and said second hooking means on said second blade under the foreskin opening prior to squeezing said first handle grip and said second handle grip together.

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Claim 19 (withdrawn): A phimosis curer as in claim18 additionally:

repeating said stretching steps once each morning and once each afternoon for two to three weeks.

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Response to the Claim Rejections

Claims 1, 2, 9, 11, 13, 14 and 15 are rejected as being obvious over the combination of Gellman et al in view of Schenk. It is assumed that "anticipation" was inadvertently used in the rejection as 35 USC 102 was not made. The references are not legally combinable. The patent to Gellman et al discloses a device for treating urinary incontinence. The device includes "spreader guides" 14 on handles 18. The spreader guides extend perpendicular to the handles that space the guides parallel and move them toward and away from each other and can lock the guides in the spaced position using ratchet lock 22 on the handles.

The device of Schenk is to a pair of cross-section leaf spring arms 11, 12 having tips 19, 20 that move together when the arms 11, 12 are moved away from each other and moved together when the arms are moved away from each other. The device is used to retract the iris of an eye and has a stop 32, 33 to limit spread of the tips with stop 23 preventing contact of the tips while kept in alignment by aperture and pin 24, 25. The tips 19, 20 are arcuate curved outwardly convex lunar shaped arcs.

The device of Schenk provides tips that are adjusted to the maximum separation. There is no ball tip. The outwardly convex lunar-shape tips are formed from the narrow end of the extension 18. The narrow tips are designed so as to enable the tips to slip through the corneal

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incision with the heel 42 in contact with the incision (column 3, line 54 - column 4, line 4; column 5, lines 29 - 44). The inner concave surface 60 is designed to contact the iris (column 4, lines 21 - 23) and the inner surface is used to capture and position the iris (column 4, lines 45 - 50). The device is designed for only left hand use, but could be designed for right hand use (column 5, lines 51 - 54).

The device of Schenk is for retracting the iris using rounded surfaces to prevent damage. The movements are all essentially within one plane. The tips are inserted through a narrow slit (Fig. 5A) and separated (Fig. 5B). This can only be accomplished because the narrow tips must fit within the incision made. The device of Gellman et al has the spreading guides 14 extend perpendicular to the plane of the handles. The distal ends 15 of the guides are sharpened for penetrating target tissue (column 3, lines 17 - 25) and the facing guides are used to insert a card or other functions (column 4, lines 1 - 9, Figs 2c, 2e) and separating the guides can be done to create a cavity in the tissue by tearing the tissue up to 2.5 to 4 cm (column 3, lines 26 - 37; column 11, lines 31 - 37; column 12, lines 5 - 11). The references are not properly combinable. There is no teaching or suggestion to combine the references. If the tips of Schenk were placed on the director at 10 and 19 on the device of Gellman et al, that device would be inoperative. The claim requires that the hook means "protrude" from the blade. As to claim 1, there could be no perpendicular penetration as the rounded tips of Schenk would prevent penetration. Further,

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there could be no guiding of a needle 24 and card 30 into tissue 9. The tips 19, 20 of Schenk on the tips of Gellman et al would block any perpendicular penetration of any object into tissue and there would be no guiding as provided by the guides 14 as required by Gellman et al. The Schenk tips are an integral part of the "blade" 22 at a modest angle. This arrangement would preclude a perpendicular insertion like that performed in Gellman et al. As to claim 9, neither Gellman et al or Schenk teach a ball with finished, smooth, curved surfaces and with spacers provided to preclude damage to the penis glands and from penetrating the foreskin. Taken together they cannot teach the structure that neither one of them teaches. Claim 15 recites a flat ratchet with cogs on the side edges with engagement by placing the first handle grip into a cog on the flat rack first side. The references do not disclose this structure

The Examiner refers to the obviousness of using the references to spread apart the foreskin. Only the claims and the Examiner, in hindsight because of the claims, address the foreskin. There is no teaching in the reference of spreading the foreskin. The references are each designed for a specific function and are shaped to perform that specific function. The shapes and functions disclosed by the references all teach away from that claimed structure. The Examiner's imagination in modifying the references teachings to something they do not teach to combine references to create structures not suggested, is the worst type of hindsight rejection that can be imagined.

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Claims 3, 5, 6, 7, 12 and 16 are rejected as being obvious over Gellman et al and Schenk, as is claim 2, taken with Cox. Cox was addressed in the previous rejections. These claims recite details of the spring pawl and ratchet that are not taught or suggested by Gellman et al or Schenk or Cox. The structure claimed is not obvious and the advantages are not obvious. It is bad enough to make erroneous assumptions about reference combining but making broad assumptions of obviousness of specific structures not known or disclosed approaches the ridiculous. In addition to the patentable differences recited in claims 1 and 2, these claims are allowable in view of these pawl and ratchet differences.

Claims 4 and 8 are rejected as being obvious over Gellman et al and Schenk and Cox as in claim 3 taken with Hastings. The patent to Hastings was addressed previously. How can the patent to Hastings teach anything to anyone with respect to claims 4 and 8 when his "ratchet" cannot even meet the structure of the base claim 3? If Hastings teaches anything, it is that the ratchet of Gellman et al should be replaced. Such a teaching does not make the claims obvious. However, if this were done, that device would be inoperative just as the Schenk modification suggested would. The "ratchet" of Hastings is an adjustment for spacing the jaws 22, 40 so as to clamp down on different size objects.

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Claim 10 is rejected under 35 USC 103(a) as being unpatentable over Gellman et al and Schenk, as in claim 9, in view of Tiedemann. Claim 10 depends from claim 9. Claim 10 calls for an inert material. Tiedemann teaches a non-stick or non-slip coating on the distal end of forceps. There is no indication that coating is an inert material or that there is a need for an inert material although some of the materials recited may be considered to be inert. Schenk however is irrelevant since the subject matter of claims 1 and 9 is not met by the references and claim 10 is patentable with them for the reasons set forth.